

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

UNITED STATES OF AMERICA

v.

HEATH DAVIS

No. 6:20-CR-021-H

**GOVERNMENT’S UNOPPOSED MOTION  
FOR PRELIMINARY ORDER OF FORFEITURE**

The United States of America (the government) requests entry of a preliminary order of forfeiture, and in support states:

**I. BACKGROUND**

1. Count One of the indictment charged the defendant Heath Davis with violations of 18 U.S.C. § 922(g)(1) and 924(a)(2) and notified the defendant that upon conviction, the government will seek to forfeit a .380 Kel Tec pistol, Model P-3AT, serial number K7B03, and two rounds of ammunition, including any additional ammunition, magazines, and/or accessories recovered with the firearm(s) (“the property”). *See* Indictment (Dkt. 1).

2. Heath Davis pled guilty to Count One and described in a factual resume how the property was involved in the offense. *See* Plea Agreement and Factual Resume (Dkt. 17 and 19).

**II. AUTHORITIES**

3. The court’s jurisdiction is based on 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), and Rule 32.2 of the Federal Rules of Criminal Procedure.

4. Pursuant to 18 U.S.C. § 924(d), any firearm or ammunition involved or used in a knowing violation of 18 U.S.C. § 922(g)(1) and 924(a)(2) may be civilly forfeited, and 28 U.S.C. § 2461(c) makes criminal forfeiture possible where a criminal law has been violated and civil forfeiture is authorized in connection with the offense.

### **III. ARGUMENT**

5. Based upon Heath Davis' guilty plea and factual resume, the government has established the requisite nexus between the property and the violations charged in the indictment. Accordingly, the property is subject to forfeiture to the government.

6. Pursuant to Fed. R. Crim. P. 32.2(b), if there is a finding property is subject to forfeiture, the court shall promptly enter a preliminary order of forfeiture directing the forfeiture of that property without regard to any third party's interest in all or part of the forfeited property. Third party interests are adjudicated in the ancillary proceeding under Rule 32.2(c).

7. Upon entry of the preliminary order of forfeiture, pursuant to 21 U.S.C. § 853(n) and Fed. R. Crim. P. 32.2(b)(3), the Attorney General will post notice of the forfeiture on an official government website ([www.forfeiture.gov](http://www.forfeiture.gov)) for at least 30 consecutive days which describes the property with reasonable particularity; states the time under 21 U.S.C. § 853(n) when a petition contesting the forfeiture must be filed [no later than 60 days after the first day of publication on an official internet government forfeiture site]; and provides contact information for the government attorney to be served with the petition on Asset Recovery Unit, U.S. Attorney's Office, Northern District of Texas, 1100 Commerce Street, Third Floor, Dallas, Texas 75242. This notice shall also

state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property; shall be signed by the petitioner under penalty of perjury; and shall set forth the nature and extent of the petitioner's right, title or interest in the property and any additional facts supporting the petitioner's claim and the relief sought.

8. The government will also send, by means reasonably calculated to reach the person, direct written notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture of the property in ancillary proceedings.

#### **IV. RELIEF**

9. Therefore, the government asks the court to enter a preliminary order forfeiting the property to the government and authorizing the Attorney General (or its designee) to seize and maintain custody of the property, subject to the provisions of 21 U.S.C. § 853(n).

Respectfully submitted,

ERIN NEALY COX  
UNITED STATES ATTORNEY

/s/ Juanita Fielden  
JUANITA FIELDEN  
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**CERTIFICATE OF CONFERENCE**

I certify that the defendant and the attorney for the defendant have previously agreed to forfeiture of the property as requested.

/s/ Juanita Fielden

JUANITA FIELDEN

Assistant United States Attorney

**CERTIFICATE OF SERVICE**

I certify that on October 19, 2020, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic filing” to counsel for defendant, who has consented in writing to accept this Notice as service of this document by electronic means.

/s/ Juanita Fielden

JUANITA FIELDEN

Assistant United States Attorney